UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,014	05/10/2001	Peter Schafer	A34196 PCT USA-A	5113

7590	11/06/2003	

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EXAMINER
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ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

--The MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

THE REPLY FILED 14 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<div align="center">PERIOD FOR REPLY [check either a) or b)]</div>

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-24*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). *20*.

10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): the amendment overcomes all of the objections except those regarding claims 12, 17, 20, and 22. Examiner notes that Applicant has failed to clearly differentiate between the "control signal" and the "vehicle control signals". When Applicant claims "said control signal", for example, in the last line of claim 17 it is unclear whether Applicant intends to refere to the control signal claimed in line 5 of claim 12 or one of the vehicle control signals claimed in line 3 of claim 17.

Continuation of 5. does NOT place the application in condition for allowance because: Examiner maintains that analyzing a deceleration rate to determine that it is too low constitutes an analysis of the dynamics to detect vehicle instability. It is noted that a too low deceleratio rate is a form of vehicle instability. It is because of the instability that the brake control system of Lubbers et al. triggers an increase in the pressure supplied to the brake booster to increase the rate of deceleration to match the demand of the operator. On pg. 9 of the ESP Electronic Stability Programme Design and Function reference submitted on 8/22/03 Examiner notes that it is determined that a critical situation is occuring when the answers to the question of what the driver is doing and what the vehicle is doing yield two different answers Examiner notes that the answers to the question of what deceleration rate the driver demands and what deceleration rate the vehicle accomplishes yield two different answers, thus, establishing that a critical situation is occuring to the same extent as Applicant's invention In both the instant invention and in Lubbers et al. the intervention that is necessary once it is determined that a critical situation is occurin is an increase in a force boosting effect. Accordingly, the rejections have been maintained .

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